

Section 1055 - Control and Prevention of Shade Tree Diseases

1055.01 Declaration of Policy. The Council has determined that the health of elm and oak trees within the City is threatened by diseases to these trees, commonly referred to as "Dutch elm disease" and "oak wilt disease," such diseases being known in scientific terms as *Ceratocystis ulmi* and *Ceratocystis fagacearum*, respectively. It has further determined that the loss of elm and oak trees growing upon public and private property will substantially depreciate the value of property within the City and impair the safety and general welfare of the public. It is declared to be the intention of the City to control and prevent the spread of these diseases, and this Section is enacted for that purpose.

1055.02 Tree Inspector. The position of Tree Inspector is hereby created within the City pursuant to M.S. 18G.13, Subd. 5 to carry out the provisions of M.S. 18G.13. The Manager is directed to employ or retain on a continuing basis a suitably qualified person as Tree Inspector, who shall be certified as a tree inspector by the State Commissioner of Agriculture. It is the duty of the Tree Inspector to coordinate, under the direction and control of the Council, all activities of the City relating to the control and prevention of Dutch elm disease and oak wilt disease. The Tree Inspector shall recommend to the Council details of the program for the control of such diseases, and perform the duties incident to such a program adopted by the Council.

1055.03 Shade Tree Disease Control Program. It is the intention of the City to conduct a program of plant pest control pursuant to the authority granted by M.S. 18G.13. The Tree Inspector shall develop a program plan in compliance with M.S. 18G.13 and the regulations issued pursuant thereto, for the identification and control of diseased elm and oak trees, and shall be responsible for the making and maintenance of all records and reports related to the program. The Tree Inspector shall act as coordinator between the State Commissioner of Agriculture and the City in the conduct of this program.

1055.04 Nuisances Declared. The following are public nuisances, wherever they may be found within the City:

Subd. 1 **Live Infected Trees.** Any elm tree infected with Dutch elm disease, or any oak tree infected with oak wilt disease; and

Subd. 2 **Dead Infected Wood.** Any dead elm or oak tree or part thereof, including logs, branches, stumps and firewood or other material from which the bark has not been removed.

1055.05 Abatement. It is unlawful for any person to permit any public nuisance, as defined by Subsection 1055.04, to remain on any premises or boulevard owned or controlled by that person within the City. Such nuisances may be abated in the manner prescribed by this Section.

1055.06 Inspection and Investigation. The Tree Inspector shall inspect all premises and places within the City as often as practicable to determine whether any nuisance described in Subsection 1055.04 exists. The Tree Inspector shall investigate all reported incidents of infestation by Dutch elm fungus of elm bark beetles or oak wilt. The Tree Inspector, or the duly

authorized agents, may enter upon private premises at any reasonable time for the purpose of carrying out any of the duties assigned the Tree Inspector under this Section. The Tree Inspector, upon finding conditions indicating Dutch elm disease or oak wilt disease infestation, may send appropriate samples to the State Diagnostic Laboratory for diagnosis as may be recommended by the State Commissioner of Agriculture.

1055.07 Abatement and Spraying of Shade Tree Disease Nuisances. In abating or ordering the abatement of the nuisances defined in Subsection 1055.04, the Tree Inspector shall cause or order the infected tree or wood to be sprayed, removed, burned, or otherwise effectively treated so as to destroy and prevent as fully as possible the spread of the diseases. Such abatement procedures shall be carried out in accordance with prescribed methods approved by the State Commissioner of Agriculture. Whenever the Tree Inspector determines that any elm or oak tree or elm or oak wood within the City is infected with Dutch elm or oak wilt disease, the Tree Inspector may spray all nearby elm or oak trees with an effective pesticide. Spraying activities authorized by this Section shall be conducted in accordance with the technical and expert opinion and plans of the State Commissioner of Agriculture and under the supervision of the State Commissioner or agents of the Commissioner whenever possible.

1055.08 Procedure for Abatement of Nuisances.

Subd. 1 **Public Streets or Boulevards.** Whenever the Tree Inspector finds with reasonable certainty that a nuisance defined in Subsection 1050.04 exists in any tree or wood within a public street or boulevard in the City, the Tree Inspector shall notify the abutting property owner or owners by mail of the infestation, and specify a time in which the infestation shall be sprayed, removed or otherwise treated by such owner or owners to the satisfaction of the Tree Inspector. The notice shall also state that if the nuisance shall not have been abated by the owner within the time provided, it will be abated by the City and that the entire cost will be billed to the owner and if not paid shall be assessed against the abutting property under M.S. 429.101.

Subd. 2 **On Private Property.** Whenever the Tree Inspector finds with reasonable certainty that a nuisance defined in Subsection 1055.04 exists in any tree or wood located on private property in the City, the Tree Inspector shall notify the owner of the property by mail of the infestation, and specify a time in which the infestation shall be sprayed, removed or otherwise treated by the owner. The notice shall also state that if the nuisance shall not have been abated by the owner within the time provided, it will be abated by the City and the entire cost will be billed to the owner, and if not paid shall be assessed against the property under M.S. 429.101.

Subd. 3 **Assessment of Costs.** The Tree Inspector shall keep a record of trees removed and the cost of abatements done under this Subsection 1055.08 and shall report monthly to the Clerk all work done for which assessments are to be made, stating and certifying the description of the land, lots and parcels involved and the amounts chargeable to each. On or before September 1 of each year, the Clerk shall list the total unpaid charges for each abatement against each separate lot or parcel to which they are attributable under this Section. The Council may then spread the charges or any portion against the property involved as a special assessment under M.S. 429.101 and other

pertinent statutes for certification to the County Auditor and collection in the following year along with current taxes.

1055.09 Interference Prohibited. It is unlawful for any person to prevent, delay or interfere with the Tree Inspector or the agents while they are engaged in the performance of duties imposed by this Section.

History: Ord 1035, repealed by Ord 1035-A1

Reference: M.S. 18G.13, 429.101